IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.A.NO.580 of 2005 (O&M)
DATE OF ORDER: 9.7.2007

Commissioner of Income Tax, Faridabad .....Appellant

Versus

Dr. Pushpa Gupta

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

.*.*.*.

Present: Mr. Yogesh Putney, Advocate for the appellant.
Mr. Sanjay Bansal, Sr. Advocate with
Mr. Parvesh Saini, Advocate.
Mr. Lokesh Sinhal, Advocate for the assessee.

JUDGMENT

M.M. KUMAR,J

This order shall dispose of ITA Nos.580,582,583,584 and 692 of 2005 along with five miscellaneous applications filed in the aforementioned five appeals. The Revenue has filed these appeals under Section 260-A of the Income-tax Act, 1961 (for brevity "the Act") against the order passed by the Income-tax Appellate Tribunal (for brevity "the Tribunal"). The details of these appeals along with appeals filed before the Tribunal is as under:

"**Appeal before the High Court** **Appeal before the Tribunal**

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1.	I.T.A.No.580 of 2005 CIT v. Dr. Pushpa Gupta	I.T.A.No.4468/Del/2004 Assessment Year 1996-97

2.	I.T.A.No.582 of 2005 CIT v. Vijay Parkash Gupta	I.T.A.No.885/Del/2004 Assessment Year 1996-97 C.O. No.93/Del/2004
3.	I.T.A.No.583 of 2005 CIT v. Smt Sunita Gupta	I.T.A.No.883/Del/2004 Assessment Year 1996-97 C.O.No.89/Del/2004
4.	I.T.A.No.584 of 2005 CIT v. Smt Sunita Gupta	I.T.A.No.882/Del/2004 Assessment Year 1995-96 C.O.No.90/Del/2004
5.	I.T.A.No.692 of 2005 CIT v. Shanti Parkash Gupta	I.T.A.No.884/Del/2004 Assessment Year 1995-1996 C.O. No.94/Del/2004"

The assessee filed these applications with a prayer that ITA No. 378 of 2004 raising similar question of law, has been decided by a Division Bench of this Court, vide its judgment dated 1.2.2007 along with ITA No. 37 of 2006, vide judgment dated 1.2.2007. It has been pointed out by referring to the admission order dated 23.10.2006 that these appeals were admitted to be heard along with ITA No. 378 of 2004.

Notice to the application was issued to the counsel for the non-applicant-Revenue for today and Mr. Yogesh Putney has put in appearance on behalf of the Revenue.

After hearing the learned counsel for the parties, we find that the matter is covered in favour of the assessee and against the Revenue because there was no material before the Assessing Officer to reach the conclusion that the transaction in question were a device to camouflage undisclosed income with the object to defraud the Revenue. Therefore, the Tribunal has rightly held that no such presumption can be drawn by the Assessing Officer merely on the surmises and conjectures. Reliance had been placed upon the judgment of Hon'ble the Supreme Court in the case of

C.Vasant Lal & Company v. CIT (1962)45, ITR 206 (SC), Kerala High Court in M.O. Thomakkutty v. CIT (1958) 34 ITR, 501 and of this Court in **Mukand Singh and sons v. Presiding Officer (1997) 107 STC 300 (Punjab).**

In view of the above, the appeals are dismissed in terms of the judgments of the Division Bench rendered in ITA No. 378 of 2004 decided on 1.2.2007.

(M.M. KUMAR)
JUDGE

July 09, 2007
rajeev

(AJAY KUMAR MITTAL)
JUDGE